

HOUSE BILL No. 1601

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-5-3; IC 3-10; IC 6-1.1-20; IC 20-23; IC 20-46-1-14; IC 36-2-1-2; IC 36-4-1.5-2; IC 36-10-3-35.

Synopsis: Public questions. Provides that a political subdivision shall pay for all election supplies, equipment, and expenses of a special election held for the voters of the political subdivision at a time other than the time of a primary, municipal, or general election. Provides that a special election may be held only on the: (1) date of a general election; (2) date of a primary election; (3) first Tuesday after the first Monday in May of an odd-numbered year; or (4) first Tuesday after the first Monday in November of an odd-numbered year. Provides that a county voter registration office (rather than the county auditor) certifies to the county election board when a public question regarding the issuance of bonds by a political subdivision is required to be placed on the ballot.

Effective: July 1, 2009.

Richardson

January 16, 2009, read first time and referred to Committee on Ways and Means.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1601

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 3-5-3-1 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Except as provided in:

(1) sections 7 through 10 of this chapter; and

(2) **section 12 of this chapter;**

the county auditor shall pay the expenses of voter registration and for all election supplies, equipment, and expenses out of the county treasury in the manner provided by law. The county fiscal body shall make the necessary appropriations for these purposes.

(b) The county executive shall pay to the circuit court clerk or board of registration the expenses of:

(1) removing voters from the registration record under IC 3-7-43, IC 3-7-45, or IC 3-7-46; and

(2) performing voter list maintenance programs under IC 3-7; out of the county treasury without appropriation.

(c) Registration expenses incurred by a circuit court clerk or board of registration for:

(1) the salaries of members of a board of registration appointed



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under IC 3-7-12-9;

(2) the salaries of chief clerks appointed under IC 3-7-12-17; and

(3) the salaries of assistants employed under IC 3-7-12-19;

may not be charged to a municipality. However, the municipality may be charged for wages of extra persons employed to provide additional assistance reasonably related to the municipal election.

SECTION 2. IC 3-5-3-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 12. Except as otherwise provided by law, a political subdivision shall pay for all election supplies, equipment, and expenses of a special election held for the voters of the political subdivision at a time other than the time of a primary, municipal, or general election.**

SECTION 3. IC 3-10-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. Whenever the Congress of the United States proposes an amendment to the Constitution of the United States and proposes that it be ratified by conventions in the several states, the governor shall fix, by proclamation, the date of an election to elect the delegates to the convention in this state. The election shall be held: ~~within~~

(1) **not earlier than** sixty (60) days after the date of the proclamation; and ~~within four (4) months after the date of the receipt of the proposed amendment by the appropriate official from the Secretary of State of the United States. If a general election occurs within this period; the~~

(2) **at the next date that a special election shall** may be held at the same time and by the same election officers who conduct the general election: **under IC 3-10-8-5.**

SECTION 4. IC 3-10-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) **A special election may be held only on the following dates:**

(1) **The date of a general election.**

(2) **The date of a primary election.**

(3) **On the first Tuesday after the first Monday in May of an odd-numbered year.**

(4) **On the first Tuesday after the first Monday in November of an odd-numbered year.**

~~(a)~~ (b) Special elections are governed by other provisions of this title as far as applicable.

~~(b)~~ (c) Except as provided in section 7 of this chapter, IC 3-12-8-17, or IC 3-12-11-18, candidates in special elections shall be nominated in the same manner as candidates are nominated:

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- (1) to fill vacancies on the ballot under IC 3-13-1 or IC 3-13-2; or
 (2) under IC 3-8-6, if a candidate does not intend to affiliate with a regular political party or represents a political party not qualified to nominate candidates at a primary election or by convention.

SECTION 5. IC 3-10-8-8 IS AMENDED TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) A special election ordered by:

- (1) a court under IC 3-12-8-17; or
 (2) the state recount commission under IC 3-12-11-18;

shall be held on the ~~ninth Tuesday~~ **first date permitted under section 5 of this chapter that is not earlier than sixty (60) days** after the court or commission enters an order requiring an election.

(b) The names of all candidates for a contested office must appear on the ballot in the special election held under this section unless a candidate vacancy has occurred.

(c) A special election held under this section may be held in all or part of an election district, as specified in an order by:

- (1) a court under IC 3-12-8-17; or
 (2) the state recount commission under IC 3-12-11-18.

SECTION 6. IC 6-1.1-20-3.5, AS ADDED BY P.L.146-2008, SECTION 193, IS AMENDED TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2009]: Sec. 3.5. (a) This section applies only to a controlled project that meets the following conditions:

(1) The controlled project is described in one (1) of the following categories:

(A) An elementary school building, middle school building, or other school building for academic instruction that:

- (i) will be used for any combination of kindergarten through grade 8;
 (ii) will not be used for any combination of grade 9 through grade 12; and
 (iii) will cost more than ten million dollars (\$10,000,000).

(B) A high school building or other school building for academic instruction that:

- (i) will be used for any combination of grade 9 through grade 12;
 (ii) will not be used for any combination of kindergarten through grade 8; and
 (iii) will cost more than twenty million dollars (\$20,000,000).

(C) Any other controlled project that:

- (i) is not a controlled project described in clause (A) or (B);

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and

(ii) will cost the political subdivision more than the lesser of twelve million dollars (\$12,000,000) or an amount equal to one percent (1%) of the total gross assessed value of property within the political subdivision on the last assessment date (if that amount is at least one million dollars (\$1,000,000)).

(2) The proper officers of the political subdivision make a preliminary determination after June 30, 2008, in the manner described in subsection (b) to issue bonds or enter into a lease for the controlled project.

(b) A political subdivision may not impose property taxes to pay debt service on bonds or lease rentals on a lease for a controlled project without completing the following procedures:

(1) The proper officers of a political subdivision shall publish notice in accordance with IC 5-3-1 and send notice by first class mail to any organization that delivers to the officers, before January 1 of that year, an annual written request for notices of any meeting to consider the adoption of an ordinance or a resolution making a preliminary determination to issue bonds or enter into a lease and shall conduct a public hearing on the preliminary determination before adoption of the ordinance or resolution. The political subdivision must make the following information available to the public at the public hearing on the preliminary determination, in addition to any other information required by law:

(A) The result of the political subdivision's current and projected annual debt service payments divided by the net assessed value of taxable property within the political subdivision.

(B) The result of:

(i) the sum of the political subdivision's outstanding long term debt plus the outstanding long term debt of other taxing units that include any of the territory of the political subdivision; divided by

(ii) the net assessed value of taxable property within the political subdivision.

(2) If the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease, the officers shall give notice of the preliminary determination by:

(A) publication in accordance with IC 5-3-1; and

(B) first class mail to the organizations described in

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- 1 subdivision (1).
- 2 (3) A notice under subdivision (2) of the preliminary
- 3 determination of the political subdivision to issue bonds or enter
- 4 into a lease must include the following information:
- 5 (A) The maximum term of the bonds or lease.
- 6 (B) The maximum principal amount of the bonds or the
- 7 maximum lease rental for the lease.
- 8 (C) The estimated interest rates that will be paid and the total
- 9 interest costs associated with the bonds or lease.
- 10 (D) The purpose of the bonds or lease.
- 11 (E) A statement that the proposed debt service or lease
- 12 payments must be approved in an election on a local public
- 13 question held under section 3.6 of this chapter.
- 14 (F) With respect to bonds issued or a lease entered into to
- 15 open:
- 16 (i) a new school facility; or
- 17 (ii) an existing facility that has not been used for at least
- 18 three (3) years and that is being reopened to provide
- 19 additional classroom space;
- 20 the estimated costs the school corporation expects to annually
- 21 incur to operate the facility.
- 22 (G) The political subdivision's current debt service levy and
- 23 rate and the estimated increase to the political subdivision's
- 24 debt service levy and rate that will result if the political
- 25 subdivision issues the bonds or enters into the lease.
- 26 (4) After notice is given, a petition requesting the application of
- 27 the local public question process under section 3.6 of this chapter
- 28 may be filed by the lesser of:
- 29 (A) one hundred (100) persons who are either owners of real
- 30 property within the political subdivision or registered voters
- 31 residing within the political subdivision; or
- 32 (B) five percent (5%) of the registered voters residing within
- 33 the political subdivision.
- 34 (5) The state board of accounts shall design and, upon request by
- 35 the county voter registration office, deliver to the county voter
- 36 registration office or the county voter registration office's
- 37 designated printer the petition forms to be used solely in the
- 38 petition process described in this section. The county voter
- 39 registration office shall issue to an owner or owners of real
- 40 property within the political subdivision or a registered voter
- 41 residing within the political subdivision the number of petition
- 42 forms requested by the owner or owners or the registered voter.

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Each form must be accompanied by instructions detailing the requirements that:

- (A) the carrier and signers must be owners of real property or registered voters;
- (B) the carrier must be a signatory on at least one (1) petition;
- (C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature; and
- (D) govern the closing date for the petition period.

Persons requesting forms may be required to identify themselves as owners of real property or registered voters and may be allowed to pick up additional copies to distribute to other property owners or registered voters. Each person signing a petition must indicate whether the person is signing the petition as a registered voter within the political subdivision or is signing the petition as the owner of real property within the political subdivision. A person who signs a petition as a registered voter must indicate the address at which the person is registered to vote. A person who signs a petition as a real property owner must indicate the address of the real property owned by the person in the political subdivision.

(6) Each petition must be verified under oath by at least one (1) qualified petitioner in a manner prescribed by the state board of accounts before the petition is filed with the county voter registration office under subdivision (7).

(7) Each petition must be filed with the county voter registration office not more than thirty (30) days after publication under subdivision (2) of the notice of the preliminary determination.

(8) The county voter registration office shall determine whether each person who signed the petition is a registered voter. However, after the county voter registration office has determined that at least one hundred twenty-five (125) persons who signed the petition are registered voters within the political subdivision, the county voter registration office is not required to verify whether the remaining persons who signed the petition are:

- (A) registered voters; or**
- (B) real property owners.**

If the county voter registration office does not determine that at least one hundred twenty-five (125) persons who signed the petition are registered voters, the county voter registration office, not more than fifteen (15) business days after receiving a petition, shall forward a copy of the petition to the county auditor. Not

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more than ten (10) business days after receiving the copy of the petition, the county auditor shall provide to the county voter registration office a statement verifying:

(A) whether a person who signed the petition as a registered voter but is not a registered voter, as determined by the county voter registration office, is the owner of real property in the political subdivision; and

(B) whether a person who signed the petition as an owner of real property within the political subdivision does in fact own real property within the political subdivision.

(9) The county voter registration office, not more than ten (10) business days after determining that at least one hundred twenty-five (125) persons who signed the petition are registered voters or after receiving the statement from the county auditor under subdivision (8) (as applicable), shall make the final determination of whether a sufficient number of persons have signed the petition. Whenever the name of an individual who signs a petition form as a registered voter contains a minor variation from the name of the registered voter as set forth in the records of the county voter registration office, the signature is presumed to be valid, and there is a presumption that the individual is entitled to sign the petition under this section. Except as otherwise provided in this chapter, in determining whether an individual is a registered voter, the county voter registration office shall apply the requirements and procedures used under IC 3 to determine whether a person is a registered voter for purposes of voting in an election governed by IC 3. However, an individual is not required to comply with the provisions concerning providing proof of identification to be considered a registered voter for purposes of this chapter. A person is entitled to sign a petition only one (1) time in a particular referendum process under this chapter, regardless of whether the person owns more than one (1) parcel of real property within the political subdivision and regardless of whether the person is both a registered voter in the political subdivision and the owner of real property within the political subdivision. Notwithstanding any other provision of this section, if a petition is presented to the county voter registration office within thirty-five (35) days before an election, the county voter registration office may defer acting on the petition, and the time requirements under this section for action by the county voter registration office do not begin to run until five (5) days after the date of the election.

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(10) The county voter registration office must file a certificate and each petition with:

(A) the township trustee, if the political subdivision is a township, who shall present the petition or petitions to the township board; or

(B) the body that has the authority to authorize the issuance of the bonds or the execution of a lease, if the political subdivision is not a township;

within thirty-five (35) business days of the filing of the petition requesting the referendum process. The certificate must state the number of petitioners who are owners of real property within the political subdivision and the number of petitioners who are registered voters residing within the political subdivision.

(11) If a sufficient petition requesting the local public question process is not filed by owners of real property or registered voters as set forth in this section, the political subdivision may issue bonds or enter into a lease by following the provisions of law relating to the bonds to be issued or lease to be entered into.

(c) If the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease, the officers shall provide to the county auditor:

(1) a copy of the notice required by subsection (b)(2); and

(2) any other information the county auditor requires to fulfill the county auditor's duties under section 3.6 of this chapter.

SECTION 7. IC 6-1.1-20-3.6, AS ADDED BY P.L.146-2008, SECTION 194, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3.6. (a) This section applies only to a controlled project described in section 3.5(a) of this chapter.

(b) If a sufficient petition requesting the application of the local public question process has been filed as set forth in section 3.5 of this chapter, a political subdivision may not impose property taxes to pay debt service on bonds or lease rentals on a lease for a controlled project unless the political subdivision's proposed debt service or lease rental is approved in an election on a local public question held under this section.

(c) The following question shall be submitted to the voters at the election conducted under this section:

"Shall _____ (insert the name of the political subdivision) issue bonds or enter into a lease to finance _____ (insert the description of the controlled project)?"

(d) The ~~county auditor~~ **county voter registration office** shall certify the public question described in subsection (c) under IC 3-10-9-3 to the

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county election board of each county in which the political subdivision is located. After the public question is certified, the public question shall be placed on the ballot:

- (1) at the next primary election, general election, or municipal election; ~~date that a special election in which all voters of the political subdivision are entitled to vote.~~ However, if a primary election, general election, or municipal election will not be held in the six (6) month period after the county auditor certifies the public question, the public question shall be placed on the ballot at a special election to ~~may be held under IC 3-10-8-5; and~~
- ~~(1) (2) not earlier than ninety (90) days and~~
- ~~(2) not later than one hundred twenty (120) days;~~
- after the public question is certified.

if the fiscal body of the political subdivision that wishes to issue the bonds or enter into the lease requests the public question to be voted on in a special election. However, in a year in which a general election or municipal election is held, the public question may be placed on the ballot at a special election only if the fiscal body of the political subdivision that requests the special election agrees to pay the costs of holding the special election. In a year in which a general election is not held and a municipal election is not held, the fiscal body of the political subdivision that requests the special election is not required to pay the costs of holding the special election. The county election board shall give notice under IC 5-3-1 of a special election conducted under this subsection. A special election conducted under this subsection is under the direction of the county election board. The county election board shall take all steps necessary to carry out the special election.

(e) The circuit court clerk shall certify the results of the public question to the following:

- (1) The county auditor of each county in which the political subdivision is located.
- (2) The department of local government finance.

(f) Subject to the requirements of IC 6-1.1-18.5-8, the political subdivision may issue the proposed bonds or enter into the proposed lease rental if a majority of the voters voting on the public question vote in favor of the public question.

(g) If a majority of the voters voting on the public question vote in opposition to the public question, both of the following apply:

- (1) The political subdivision may not issue the proposed bonds or enter into the proposed lease rental.
- (2) Another public question under this section on the same or a substantially similar project may not be submitted to the voters

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earlier than one (1) year after the date of the election.

(h) IC 3, to the extent not inconsistent with this section, applies to an election held under this section.

(i) A political subdivision may not artificially divide a capital project into multiple capital projects in order to avoid the requirements of this section and section 3.5 of this chapter.

SECTION 8. IC 20-23-4-21, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. (a) If the chairperson of the county committee does not receive the certification or combined certifications under section 20(f) of this chapter not later than ninety (90) days after the receipt by the county committee of the plan referred to in section 20(a) of this chapter, the judge of the circuit court of the county from which the county committee submitting the plan was appointed shall:

(1) certify the public question under IC 3-10-9-3; and

(2) order the county election board to conduct a special election in which the registered voters residing in the proposed community school corporation may vote to determine whether the corporation will be created.

(b) If:

(1) a primary election at which county officials are nominated; or

(2) a general election at which county officials are elected;

and for which the question can be certified in compliance with IC 3-10-9-3 is to be held not later than six (6) months after the receipt by the chairperson of the county committee of the plan referred to in section 20(a) of this chapter, regardless of whether the ninety (90) day period referred to in subsection (a) has expired, the judge shall order the county election board to conduct the special election to be held in conjunction with the primary or general election.

(c) If a primary or general election will not be held in the six (6) month period referred to in subsection (b), the special election shall be held

~~(1) not earlier than sixty (60) days; and~~

~~(2) not later than one hundred twenty (120) days;~~

on the date a special election may be held under IC 3-10-8-5 that first occurs after the expiration of the ninety (90) day period referred to in subsection (a).

(d) The county election board shall give notice under IC 5-3-1 of the special election referred to in subsection (a).

(e) The notice referred to in subsection (d) of a special election must:

(1) clearly state that the election is called to afford the registered

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voters an opportunity to approve or reject a proposal for the formation of a community school corporation;

(2) contain:

(A) a general description of the boundaries of the community school corporation as set out in the plan;

(B) a statement of the terms of adjustment of:

(i) property;

(ii) assets;

(iii) debts; and

(iv) liabilities;

of an existing school corporation that is to be divided in the creation of the community school corporation;

(C) the name of the community school corporation;

(D) the number of members comprising the board of school trustees; and

(E) the method of selecting the board of school trustees of the community school corporation; and

(3) designate the date, time, and voting place or places at which the election will be held.

(f) A special election referred to in subsection (a) is under the direction of the county election board in the county. The election board shall take all steps necessary to carry out the special election. If the special election is not conducted at a primary or general election, the cost of conducting the election is:

(1) charged to each component school corporation embraced in the community school corporation in the same proportion as the component school corporation's assessed valuation is to the total assessed valuation of the community school corporation; and

(2) paid:

(A) from any current operating fund not otherwise appropriated of; and

(B) without appropriation by;

each component school corporation.

If a component school corporation is to be divided and its territory assigned to two (2) or more community corporations, the component school corporation's cost of the special election is in proportion to the corporation's assessed valuation included in the community school corporation.

(g) The county election board shall place the public question on the ballot in the form prescribed by IC 3-10-9-4. The public question must state "Shall the (here insert name) community school corporation be formed as provided in the Reorganization Plan of the County

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Committee for the Reorganization of School Corporations?". Except as otherwise provided in this chapter, the election is governed by IC 3.

(h) If a majority of the votes cast at a special election referred to in subsection (a) on the public question are in favor of the formation of the corporation, a community school corporation is created and takes effect on the earlier of:

(1) the July 1; or

(2) the January 1;

that next follows the date of publication of the notice referred to in subsection (d).

(i) If a public official fails to perform a duty required of the official under this section within the time prescribed in this section, the omission does not invalidate the proceedings taken under this section.

(j) An action:

(1) to contest the validity of the formation or creation of a community school corporation under this section;

(2) to declare that a community school corporation:

(A) has not been validly formed or created; or

(B) is not validly existing; or

(3) to enjoin the operation of a community school corporation; may not be instituted later than thirty (30) days after the date of the special election referred to in subsection (a).

SECTION 9. IC 20-23-7-2, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) In any county or adjoining counties at least two (2) school corporations, including school townships, school towns, school cities, consolidated school corporations, joint schools, metropolitan school districts, township school districts, or community school corporations, regardless of whether the consolidating school corporations are of the same or of a different character, may consolidate into one (1) metropolitan school district. Subject to subsection (h), the consolidation must be initiated by following either of the following procedures:

(1) The township trustee, board of school trustees, board of education, or other governing body (the trustee, board, or other governing body is referred to elsewhere in this section as the "governing body") of each school corporation to be consolidated shall:

(A) adopt substantially identical resolutions providing for the consolidation; and

(B) publish a notice setting out the text of the resolution one (1) time under IC 5-3-1.

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1 The resolution must set forth any provision for staggering the
 2 terms of the board members of the metropolitan school district
 3 elected under this chapter. If, not more than thirty (30) days after
 4 publication of the resolution, a petition of protest, signed by at
 5 least twenty percent (20%) of the registered voters residing in the
 6 school corporation is filed with the clerk of the circuit court of
 7 each county where the voters who are eligible to sign the petition
 8 reside, a referendum election shall be held as provided in
 9 subsection (c).

10 (2) Instead of the adoption of substantially identical resolutions in
 11 each of the proposed consolidating school corporations under
 12 subdivision (1), a referendum election under subsection (c) shall
 13 be held on the occurrence of all of the following:

14 (A) At least twenty percent (20%) of the registered voters
 15 residing in a particular school corporation sign a petition
 16 requesting that the school corporation consolidate with another
 17 school corporation (referred to in this subsection as "the
 18 responding school corporation").

19 (B) The petition described in clause (A) is filed with the clerk
 20 of the circuit court of each county where the voters who are
 21 eligible to sign the petition reside.

22 (C) Not more than thirty (30) days after the service of the
 23 petition by the clerk of the circuit court to the governing body
 24 of the responding school corporation under subsection (b) and
 25 the certification of signatures on the petition occurs under
 26 subsection (b), the governing body of the responding school
 27 corporation adopts a resolution approving the petition and
 28 providing for the consolidation.

29 (D) An approving resolution has the same effect as the
 30 substantially identical resolutions adopted by the governing
 31 bodies under subdivision (1), and the governing bodies shall
 32 publish the notice provided under subdivision (1) not more
 33 than fifteen (15) days after the approving resolution is adopted.
 34 However, if a governing body that is a party to the
 35 consolidation fails to publish notice within the required fifteen
 36 (15) day time period, a referendum election still must be held
 37 as provided in subsection (c).

38 If the governing body of the responding school corporation does
 39 not act on the petition within the thirty (30) day period described
 40 in clause (C), the governing body's inaction constitutes a
 41 disapproval of the petition request. If the governing body of the
 42 responding school corporation adopts a resolution disapproving

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the petition or fails to act within the thirty (30) day period, a referendum election as described in subsection (c) may not be held and the petition requesting the consolidation is defeated.

(b) Any petition of protest under subsection (a)(1) or a petition requesting consolidation under subsection (a)(2) must show in the petition the date on which each person has signed the petition and the person's residence on that date. The petition may be executed in several counterparts, the total of which constitutes the petition. Each counterpart must contain the names of voters residing within a single county and shall be filed with the clerk of the circuit court of the county. Each counterpart must have attached to it the affidavit of the person circulating the counterpart that each signature appearing on the counterpart was affixed in that person's presence and is the true and lawful signature of each person who made the signature. Any signer may file the petition or any counterpart of the petition. Each signer on the petition may before and may not after the filing with the clerk withdraw the signer's name from the petition. A name may not be added to the petition after the petition has been filed with the clerk. After the receipt of any counterpart of the petition, each circuit court clerk shall certify:

- (1) the number of persons signing the counterpart;
- (2) the number of persons who are registered voters residing within that part of the school corporation located within the clerk's county, as disclosed by the voter registration records in the office of the clerk or the board of registration of the county, or wherever registration records may be kept;
- (3) the total number of registered voters residing within the boundaries of that part of the school corporation located within the county, as disclosed in the voter registration records; and
- (4) the date of the filing of the petition.

Certification shall be made by each clerk of the circuit court not more than thirty (30) days after the filing of the petition, excluding from the calculation of the period any time during which the registration records are unavailable to the clerk, or within any additional time as is reasonably necessary to permit the clerk to make the certification. In certifying the number of registered voters, the clerk of the circuit court shall disregard any signature on the petition not made within the ninety (90) days immediately before the filing of the petition with the clerk as shown by the dates set out in the petition. The clerk of the circuit court shall establish a record of the certification in the clerk's office and shall serve the original petition and a copy of the certification on the county election board under IC 3-10-9-3 and the governing bodies of each

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1 affected school corporation. Service shall be made by mail or manual
 2 delivery to the governing bodies, to any officer of the governing bodies,
 3 or to the administrative office of the governing bodies, if any, and shall
 4 be made for all purposes of this section on the day of the mailing or the
 5 date of the manual delivery.

6 (c) The county election board in each county where the proposed
 7 metropolitan school district is located, acting jointly where the
 8 proposed metropolitan school district is created and where it is located
 9 in more than one (1) county, shall cause any referendum election
 10 required under either subsection (a)(1) or (a)(2) to be held in the entire
 11 proposed metropolitan district at a special election. The special election
 12 shall be **held on the first date that:**

13 **(1) is not less than sixty (60) days and not more than ninety (90)**
 14 **days after:**

15 **(A) the service of the petition of protest and certification by**
 16 **each clerk of the circuit court under subsection (a)(1) or (a)(2);**
 17 **or after**

18 **(B) the occurrence of the first action requiring a referendum**
 19 **under subsection (a)(2); However, if a primary or general**
 20 **election at which county officials are to be nominated or**
 21 **elected; or at which city or town officials are to be elected in**
 22 **those areas of the proposed metropolitan school district that**
 23 **are within the city or town, is to be held after the sixty (60)**
 24 **days and not more than six (6) months after the service or the**
 25 **occurrence of the first action; each election board may hold the**
 26 **referendum election with the primary or general election; and**

27 **(2) a special election may be held under IC 3-10-8-5.**

28 (d) Notice of the special election shall be given by each election
 29 board by publication under IC 5-3-1.

30 (e) Except where it conflicts with this section or cannot be
 31 practicably applied, IC 3 applies to the conduct of the referendum
 32 election. If the referendum election is not conducted at a primary or
 33 general election, the cost of conducting the election shall be charged to
 34 each component school corporation included in the proposed
 35 metropolitan school district in the same proportion as its assessed
 36 valuation bears to the total assessed valuation of the proposed
 37 metropolitan school district and shall be paid from any current
 38 operating fund of each component school corporation not otherwise
 39 appropriated, without appropriation.

40 (f) The question in the referendum election shall be placed on the
 41 ballot in the form prescribed by IC 3-10-9-4 and must state "Shall the
 42 school corporations of _____ be formed into one (1) metropolitan

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school district under IC 20-23-7?" (in which blanks the respective name of the school districts concerned will be inserted).

(g) If:

(1) a protest petition with the required signatures is not filed after the adoption of substantially identical resolutions of the governing bodies providing for or approving the consolidation as described in subsection (a)(1); or

(2) a referendum election occurs in the entire proposed metropolitan district and a majority of the voters in each proposed consolidating school corporation vote in the affirmative;

a metropolitan school district is created and comes into existence in the territory subject to the provisions and under the conditions described in this chapter. The boundaries include all of the territory within the school corporations, and it shall be known as "Metropolitan School District of _____, Indiana" (the name of the district concerned will be inserted in the blank). The name of the district shall be decided by a majority vote of the metropolitan governing board of the metropolitan school district at the first meeting. The metropolitan governing board of the new metropolitan school district shall be composed and elected under this chapter. The failure of any public official or body to perform any duty within the time provided in this chapter does not invalidate any proceedings taken by that official or body, but this provision shall not be construed to authorize a delay in the holding of a referendum election under this chapter.

(h) If the governing body of a school corporation is involved in a consolidation proposal under subsection (a)(1) or (a)(2) that fails to result in a consolidation, the:

(1) governing body of the school corporation may not initiate a subsequent consolidation with another school corporation under subsection (a)(1); and

(2) residents of the school corporation may not file a petition requesting a consolidation with another school corporation under subsection (a)(2);

for one (1) year after the date on which the prior consolidation proposal failed.

SECTION 10. IC 20-23-7-12, AS AMENDED BY P.L.1-2007, SECTION 143, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) As used in this section, "county" means the county in which the school township is located.

(b) As used in this section, "school township" means a school township in Indiana that:

(1) for the last full school semester immediately preceding:

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- 1 (A) the adoption of a preliminary resolution by the township
 2 trustee and the township board under subsection (f); or
 3 (B) the adoption of a resolution of disapproval by the township
 4 trustee and the township board under subsection (g);
 5 had an ADM of at least six hundred (600) students in
 6 kindergarten through grade 12 in the public schools of the school
 7 township; or
 8 (2) is part of a township in which there were more votes cast for
 9 township trustee outside the school township than inside the
 10 school township in the general election at which the trustee was
 11 elected and that preceded the adoption of the preliminary or
 12 disapproving resolution.
- 13 (c) As used in this section, "township board" means the township
 14 board of a township in which the school township is located.
- 15 (d) As used in this section, "township trustee" means the township
 16 trustee of the township in which the school township is located.
- 17 (e) In a school township, a metropolitan school district may be
 18 created by complying with this section. A metropolitan school district
 19 created under this section shall have the same boundaries as the school
 20 township. After a district has been created under this section, the
 21 school township that preceded the metropolitan school district is
 22 abolished. The procedures or provisions governing the creation of a
 23 metropolitan school district under another section of this chapter do not
 24 apply to the creation of a district under this section. After a
 25 metropolitan school district is created under this section, the district
 26 shall, except as otherwise provided in this section, be governed by and
 27 operate in accordance with this chapter governing the operation of a
 28 metropolitan school district as established under section 2 of this
 29 chapter.
- 30 (f) Except as provided in subsection (g), a metropolitan school
 31 district provided for in subsection (e) may be created in the following
 32 manner:
- 33 (1) The township trustee shall call a meeting of the township
 34 board. At the meeting, the township trustee and a majority of the
 35 township board shall adopt a resolution that a metropolitan school
 36 district shall be created in the school township. The township
 37 trustee shall then give notice:
- 38 (A) by two (2) publications one (1) week apart in a newspaper
 39 of general circulation published in the school township; or
 40 (B) if there is no newspaper as described in clause (A), in a
 41 newspaper of general circulation in the county;
 42 of the adoption of the resolution setting forth the text of the

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1 resolution.

2 (2) On the thirtieth day after the date of the last publication of the
3 notice under subdivision (1) and if a protest has not been filed, the
4 township trustee and a majority of the township board shall
5 confirm their preliminary resolution. If, however, on or before the
6 twenty-ninth day after the date of the last publication of the
7 notice, a number of registered voters of the school township,
8 equal to five percent (5%) or more of the number of votes cast in
9 the school township for secretary of state at the last preceding
10 general election for that office, sign and file with the township
11 trustee a petition requesting an election in the school township to
12 determine whether or not a metropolitan school district must be
13 created in the township in accordance with the preliminary
14 resolution, then an election must be held as provided in
15 subsection (h). The preliminary resolution and confirming
16 resolution provided in this subsection shall both be adopted at a
17 meeting of the township trustee and township board in which the
18 township trustee and each member of the township board received
19 or waived a written notice of the date, time, place, and purpose of
20 the meeting. The resolution and the proof of service or waiver of
21 the notice shall be made a part of the records of the township
22 board.

23 (g) Except as provided in subsection (f), a metropolitan school
24 district may also be created in the following manner:

25 (1) A number of registered voters of the school township, equal
26 to five percent (5%) or more of the votes cast in the school
27 township for secretary of state at the last general election for that
28 office, shall sign and file with the township trustee a petition
29 requesting the creation of a metropolitan school district under this
30 section.

31 (2) The township trustee and a majority of the township board
32 shall, not more than ten (10) days after the filing of a petition:

33 (A) adopt a preliminary resolution that a metropolitan school
34 district shall be created in the school township and proceed as
35 provided in subsection (f); or

36 (B) adopt a resolution disapproving the creation of the district.

37 (3) If either the township trustee or a majority of township board
38 members vote in favor of disapproving the resolution, an election
39 must be held to determine whether or not a metropolitan school
40 district shall be created in the school township in the same
41 manner as is provided in subsection (f) if an election is requested
42 by petition.

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(h) An election required under subsection (f) or (g) ~~may, at the option of the township trustee, shall~~ be held either: ~~as a special election or~~

(1) in conjunction with a primary or general election to be held not more than one hundred twenty (120) days after:

(A) the filing of a petition under subsection (f); or

(B) the adoption of the disapproving resolution under subsection (g); ~~or~~

(2) at a special election on the next date that a special election may be held under IC 3-10-8-5 that is at least sixty (60) days after:

(A) the filing of a petition under subsection (f); or

(B) the adoption of the disapproving resolution under subsection (g).

(i) The township trustee shall certify the question to the county election board under IC 3-10-9-3 and give notice of an election:

(1) by two (2) publications one (1) week apart in a newspaper of general circulation in the school township; or

(2) if a newspaper described in subdivision (1) does not exist, in a newspaper of general circulation published in the county.

The notice must provide that on a day and time named in the notice, the polls shall be opened at the usual voting places in the various precincts in the school township for the purpose of taking the vote of the registered voters of the school township regarding whether a metropolitan school district shall be created in the township. ~~If the election shall be~~ **is held at a special election, the notice must be published** not less than twenty (20) days and not more than thirty (30) days ~~after the last publication of the notice unless before the date of the election. If the election is held on the same date as a primary or general election will be conducted, not more than six (6) months after the publication. In that case, the county election board shall place the public question on the ballot at the primary or general election. If the election is to be a special election, the township trustee shall give notice not more than thirty (30) days after the filing of the petition or the adoption of the disapproving resolution. the notice must be published at the same time as notice of the primary or general election is published.~~

~~(i)~~ (j) On the day and time named in the notice, the polls shall be opened and the votes of the voters shall be taken regarding whether a metropolitan school district shall be created in the school township. IC 3 governs the election except as otherwise provided in this chapter. The county election board shall conduct the election. The public

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question shall be placed on the ballot in the form prescribed by IC 3-10-9-4 and must state, "Shall a metropolitan school district under IC 20-23-7 be formed in the _____ School Township of _____ County, Indiana?". The name of the school township shall be inserted in the blanks.

(j) (k) The votes cast in the election shall be canvassed at a place in the school township determined by the county election board. The certificate of the votes cast for and against the creation of a metropolitan school district shall be filed in the records of the township board and recorded with the county recorder. If the special election is not conducted at a primary or general election, the school township shall pay the expense of holding the election out of the school general fund that is appropriated for this purpose.

(k) (l) A metropolitan school district shall, subject to section 7 of this chapter, be created on the thirtieth day after the date of the adoption of the confirming resolution under subsection (f) or an election held under subsection (h). If a public official fails to do the official's duty within the time prescribed in this section, the failure does not invalidate the proceedings taken under this section. An action to contest the validity of the creation of a metropolitan school district under this section or to enjoin the operation of a metropolitan school district may not be instituted later than the thirtieth day following the date of the adoption of the confirming resolution under subsection (f) or of the election held under subsection (h). Except as provided in this section, an election under this subsection may not be held sooner than twelve (12) months after another election held under subsection (h).

(l) (m) A metropolitan school district is known as "The Metropolitan School District of _____ Township, _____ County, Indiana". The first metropolitan board of education in a metropolitan school district created under this section consists of five (5) members. The township trustee and the township board members are ex officio members of the first board, subject to the laws concerning length of their respective terms of office, manner of election or appointment, and the filling of vacancies applicable to their respective offices. The ex officio members serve without compensation or reimbursement for expenses, other than that which they may receive from their respective offices. The township board shall, by a resolution recorded in its records, appoint the fifth member of the metropolitan board of education. The fifth member shall meet the qualifications of a member of a metropolitan board of education under this chapter, with the exception of the board member district requirements provided in sections 4, 5, and 8 of this chapter.

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~~(m)~~ (n) A fifth board member shall be appointed not more than fifteen (15) days after the date of the adoption of the confirming resolution under subsection (f)(2) or an election held under subsection (h). The first board shall hold its first meeting not more than fifteen (15) days after the date when the fifth board member is appointed or elected, on a date established by the township board in the resolution in which it appoints the fifth board member. The first board shall serve until July 1 following the election of a metropolitan school board at the first primary election held more than sixty (60) days following the creation of the metropolitan school district.

~~(n)~~ (o) After the creation of a metropolitan school district under this section, the president of the metropolitan school board of the district shall serve as a member of the county board of education and perform the duties on the county board of education that were previously performed by the township trustee. The metropolitan school board and superintendent of the district may call upon the assistance of and use the services provided by the county superintendent of schools. This subsection does not limit or take away the powers, rights, privileges, or duties of the metropolitan school district or the board or superintendent of the district provided in this chapter.

SECTION 11. IC 20-23-8-16, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) If:

- (1) the governing body has disapproved a plan submitted;
- (2) an alternative plan has been filed; or
- (3) a petition of protest has been filed;

the county election board shall hold a special election at ~~a~~ **the next** date to be determined by the county election board not more ~~that~~:

- (1) a special election may be held under IC 3-10-8-5; and**
- (2) is not earlier than ninety (90) ~~sixty~~ (60) days** after the receipt of the determination of the state board on a plan in the form certified by the state board.

~~(b) If a special election under subsection (a) can be held not more than six (6) months after the receipt of the determination from the state board in conjunction with a primary or general election at which:~~

- ~~(1) county officials are to be elected or nominated; or~~
- ~~(2) city or town officials are to be elected in those areas of the school corporations that are within the city or town;~~

~~the county election board may delay the special election until the date of the regular election:~~

~~(c)~~ (b) If a school corporation is located in more than one (1) county, the county election board of the county containing the greatest

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percentage of population of the school corporation shall determine the date of an election held under this section.

SECTION 12. IC 20-46-1-14, AS AMENDED BY P.L.146-2008, SECTION 499, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) The referendum shall be held in the next primary or general election in which all the registered voters who are residents of the appellant school corporation are entitled to vote after certification of the question under IC 3-10-9-3. However, if the referendum would be held at a primary or general election more than six (6) months after certification by the county fiscal body, the referendum shall be held at a special election ~~to be conducted not less at the next date that:~~

(1) a special election may be held under IC 3-10-8-5; and

(2) is not earlier than ninety ~~(90)~~ sixty (60) days after the question is certified to the circuit court clerk or clerks by the county fiscal body.

(b) ~~The school corporation shall advise each affected county election board of the date on which the school corporation desires that the referendum be held; and, if practicable, the referendum shall be held on the day specified by the school corporation.~~

(c) (b) The referendum shall be held under the direction of the county election board, which shall take all steps necessary to carry out the referendum.

(d) ~~If a primary election, general election, or special election is held during the sixty (60) days preceding or following the special election described in this section and is held in an election district that includes some, but not all, of the school corporation, the county election board may also adopt orders to specify when the registration period for the elections cease and resume under IC 3-7-13-10.~~

(e) (c) Not less than ten (10) days before the date on which the referendum is to be held, the county election board shall cause notice of the question that is to be voted upon at the referendum to be published in accordance with IC 5-3-1.

(f) (d) If the referendum is not conducted at a primary or general election, the appellant school corporation in which the referendum is to be held shall pay all the costs of holding the referendum.

SECTION 13. IC 36-2-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) If the resident voters in a specified territory in two (2) or more contiguous counties desire to change the boundaries of their respective counties, they may file a petition with the executives of their respective counties requesting that the territory be transferred. The petition must:

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(1) be signed by at least the number of voters resident in the territory requested to be transferred required to place a candidate on the ballot under IC 3-8-6-3;

(2) contain a clear, distinct description of the requested boundary change; and

(3) not propose to decrease the area of any county below four hundred (400) square miles in compliance with Article 15, Section 7 of the Constitution of the State of Indiana.

(b) Whenever a petition under subsection (a) is filed with a county executive, the executive shall determine, at its first meeting after the petition is filed:

(1) whether the signatures on the petition are genuine; and

(2) whether the petition complies with subsection (a).

(c) If the determinations under subsection (b) are affirmative, the executive shall certify the question to the county election board of each affected county. The county election boards shall jointly order a special election to be held, scheduling the election so that the election is held on:

(1) the same date in each county interested in the change; ~~but not later than thirty (30) days and not on~~

(2) the same date as a ~~general~~ **special** election **may be held under IC 3-10-8-5.**

The election shall be conducted under IC 3-10-8-6. All voters of each interested county are entitled to vote on the question. The question shall be placed on the ballot in the form prescribed by IC 3-10-9-4 and must state "Shall the boundaries of _____ County and _____ County change?".

(d) After an election under subsection (c), the clerk of each county shall make a certified copy of the election returns and not later than five (5) days after the election file the copy with the auditor of the county. The auditor shall, not later than five (5) days after the filing of the returns in the auditor's office, make a true and complete copy of the returns, certified under the auditor's hand and seal, and deposit the copy with the auditor of every other county interested in the change.

(e) After copies have been filed under subsection (d), the auditor of each county shall call a meeting of the executive of the county, which shall examine the returns. If a majority of the voters of each interested county voted in favor of change, the executive shall:

(1) enter an order declaring their boundaries to be changed as described in the petition; and

(2) if the county has received territory from the transfer, adopt revised descriptions of:

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(A) county commissioner districts under IC 36-2-2-4; and
 (B) county council districts under IC 36-2-3-4;
 so that the transferred territory is assigned to at least one (1) county commissioner district and at least one (1) county council district.

(f) The executive of each county shall file a copy of the order described in subsection (e)(1) with:

- (1) the office of the secretary of state; and
- (2) the circuit court clerk of the county.

Except as provided in subsection (g), the transfer of territory becomes effective when the last county order is filed under this subsection.

(g) An order declaring county boundaries to be changed may not take effect during the year preceding a year in which a federal decennial census is conducted. An order that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

(h) An election under this section may be held only once every three (3) years.

SECTION 14. IC 36-4-1.5-2, AS ADDED BY P.L.111-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. A town may be changed into a city through the following:

(1) The town legislative body must adopt a resolution submitting to the town's voters the question of whether the town should be changed into a city. The town legislative body shall adopt a resolution described in this subdivision if at least the number of registered voters of the town equal to ten percent (10%) of the total votes cast in the town at the ~~last~~ **most recent** election for secretary of state sign a petition requesting the town legislative body to adopt such a resolution. In determining the number of signatures required under this subdivision, any fraction that exceeds a whole number shall be disregarded.

(2) ~~A resolution adopted under subdivision (1) must fix~~ The date for an election on the question of whether the town should be changed into a city ~~if the election is to be a special election; the date must be:~~

(A) ~~not less than thirty (30); on a date that a special election may be held under IC 3-10-8-5;~~ and

(B) not more than sixty (60) days after the notice of the election.

~~If the election is to be on the same date as a general election; the resolution must state that fact and be certified in accordance with~~

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~~IC 3-10-9-3.~~

(3) The town legislative body shall file a copy of the resolution adopted under subdivision (1) with the circuit court clerk of each county in which the town is located. The circuit court clerk shall immediately certify the resolution to the county election board **under IC 3-10-9-3.**

(4) The county election board shall give notice of the election in the manner prescribed by IC 3-8-2-19. IC 3-10-6 applies to the election.

(5) The question described in subdivision (1) shall be placed on the ballot in the form prescribed by IC 3-10-9-4. The text of the question shall be: "Shall the town of _____ change into a city?".

(6) If a majority of the voters voting on the question described in subdivision (1) vote "yes", the town is changed into a city as provided in this chapter. If a majority of the voters voting on the question vote "no", the town remains a town.

SECTION 15. IC 36-10-3-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 35. (a) If the fiscal body approves the petition and adopts the ordinance presented under section 34 of this chapter, the ordinance takes effect.

(b) After the adoption of the ordinance, the fiscal body shall certify the question under IC 3-10-9-3 to the county election board of the county containing the greatest percentage of population of the municipality. ~~and fix a date for~~ A special election ~~to~~ shall be held:

(1) on the next date that a special election may be held under IC 3-10-8-5; and

(2) not later earlier than ninety (90) sixty (60) days after adoption. However, if a primary, general, or municipal election will be conducted in each precinct in the affected area not later than six (6) months after the ordinance is adopted, the special election shall be conducted on the same day as the primary, general, or special election. The election shall be held by the county election board in the area described in the petition. IC 3-10-8-6 applies to the special election. Any voter residing in the affected area may vote in the election.

(c) The county election board shall give public notice of the special election in accordance with IC 3-10-2-2.

(d) The ballot must be in the form prescribed by IC 3-10-9-4 and must state "Shall park and recreation services be extended?".

(e) If the special election is not conducted at a general election, municipal election, or primary election, the fiscal body shall

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- 1 appropriate a sum sufficient to defray the cost of the ballots and to pay
- 2 the expense of the election as prescribed by IC 3. The appropriation
- 3 may be from the general fund or by transfer from the operating budget
- 4 of the department.

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